REMARKS

In response to the Office action of October 20, 2005, Applicant asks that all claims be allowed in view of the amendments to the claims and the following remarks. Claims 1-23 are pending, with claims 1, 10 and 17 being independent. Claims 1, 10 and 17 are currently amended.

Rejections Under 35 U.S.C. § 102(e)

Claims 1-3, 5, 6, 10-12, 14, 15, 17-19, 21 and 22 are rejected under 35 U.S.C. §102(e) as being anticipated by VanDeusen (U.S. Patent No. 6,598,172 B1). Applicant requests reconsideration and withdrawal of the rejection because VanDeusen does not describe or suggest the subject matter of the independent claims. For example, VanDeusen does not describe or suggest comparing a measured size of a receiving data buffer to a predetermined nominal data buffer size to produce a comparison result, weighting the comparison result and determining a parameter that relates to and amplifies the temporal drift based on the weighted comparison result.

Specifically, amended independent claim 1 recites a method for temporal drift correction in a real-time electronic communication. The method includes measuring a size of a receiving data buffer and comparing the measured size of the receiving data buffer to a predetermined nominal data buffer size to produce a comparison result. The method includes weighting the comparison result and determining a parameter that relates to and amplifies the temporal drift based on the weighted comparison result. The method also includes determining, based on the determined parameter, a number of samples to be inserted in or removed from a playback data block and modifying the playback data block by inserting or removing a number of samples that is based on the determined number of samples.

Moreover, in independent claim 1, the playback data block is modified by inserting or removing a number of samples based on the determined number of samples, and thus the modification is dependent upon the weight that is applied to the comparison between the

measured size of the receiving data buffer and the predetermined nominal data buffer size[1].
Examples and illustrations are provided in the specification, e.g., at page 2, lines 21 et seq. Thus,
through the claimed application of weights, relative acceleration of playback data block
modification or (conversely) relative deceleration of playback data block modification may be
achieved. In this manner, the rate of correction for temporal drift can be modified.

VanDeusen describes compensating for a clock skew between an encoder and a decoder
used in a coordinated computer system for encoding, transmitting and decoding a series of data
packets. See VanDeusen at abstract. To compensate for the clock skew, the decoder modifies the
time stamps of the data packets based on a calculated drift metric representing the clock skew.
See VanDeusen at abstract.

VanDeusen calculates the drift metric representing the clock skew based on the growth
(or diminution) of the queue. See VanDeusen at col. 4, line 49 to col. 5, line 18. More
particularly, VanDeusen calculates the drift metric by subtracting the queue growth from the
number of packets that arrived and dividing this total (i.e., # of packets arrived – queue growth)
by the number of packets that arrived. See VanDeusen at col. 5, lines 1-5. No other values or
variables are used in the drift metric calculation formula of VanDeusen. See VanDeusen at col.
5, lines 1-5. Accordingly, VanDeusen necessarily does not determine an amount of temporal drift
based on weighting a comparison between a measured size of a receiving data buffer and a
predetermined nominal data buffer size, as recited in independent claim 1.

Moreover, VanDeusen does not contemplate relative acceleration or deceleration of queue
modification based on sample insertion or deletion. Nor does VanDeusen otherwise suggest
amplifying temporal drift through the use of a weighting factor, as recited in amended
independent claim 1.

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1 Lines 21 et seq. on page 7 of the specification describe an example of a weight CF that is applied to the result of a
comparison between the measured size of the receiving data buffer and the predetermined nominal data.
Specifically, the equation shown at line 22 of page 7 of the specification shows application of a convergent factor
CF to a term that relates the average data buffer size AS[i], the nominal number of samples in the data buffer Ns and
the number of nominal audio playback blocks in the data buffer Nb.

For at least these reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of independent claim 1 along with claims 2, 3 and 5-9 that depend therefrom.

Independent claim 10 recites a computer program, residing on a computer-readable medium, for correcting temporal drift in a real-time electronic communication in a manner corresponding to that of independent claim 1, and independent claim 17 recites a computer system running programmed processes for doing the same. Accordingly, for the reasons noted above with respect to independent claim 1, Applicant requests reconsideration and withdrawal of the rejection of independent claims 10 and 17 along with claims 11, 12, 14-16, 18, 19, and 21-23 that depend therefrom.

Rejections Under 35 U.S.C. § 103(a)

Claims 4, 13 and 20, which depend from independent claims 1, 10 and 17, respectively stand rejected under 35 U.S.C. § 103(a) as being unpatentable over VanDeusen in view of Examiner's Official Notice. Applicant requests reconsideration and withdrawal of the rejection because the Official Notice does not remedy the failure of VanDeusen to describe or suggest the subject matter of the independent claims.

The Examiner takes Official Notice that "averaging of measurements [of instantaneous communication delays associated with a receiving data buffer] is well known in the art." See Office action of October 10, 2005 at pages 4-5. The Official Notice, however, does not cure the failure of VanDeusen to describe or suggest comparing a measured size of a receiving data buffer to a predetermined nominal data buffer size to produce a comparison result, weighting the comparison result and determining an amount of temporal drift based on the weighted comparison result, as described above. Nor does the Office Action contend the Official Notice does so. For at least this reason, and based on the dependency from independent claims 1, 10 and 17, respectively, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 4, 13 and 20.

Moreover, to the extent that this rejection is maintained, Applicant traverses the Official Notice taken, and requests evidentiary support demonstrating the contention that "averaging of

measurements [of instantaneous communication delays associated with a receiving data buffer]"
is well known in the art.

Conclusion

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Pursuant to 37 CFR §1.136, Applicant hereby petitions that the period for response to the action dated October 20, 2005, be extended for one month to and including February 21, 2006. Applicant notes that the U.S. Patent and Trademark Office was closed on February 20, 2006 for Washington's Birthday.

Enclosed is a check for $120 for the extension of time fee and a check for $150.00 for the additional claims fee. Please apply any other charges or credits to deposit account 06 -1050.

Respectfully submitted,

Date: 2/21/2006
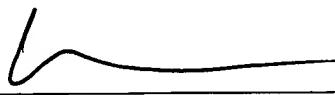
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